

can be found in the specification on page 11, lines 1-2 and 18-23. Support for the amending language of claim 54 can be found in the specification on page 11, lines 24-28. In addition, claim 16 has been amended to change its dependency. Support for new claims 55-65 can be found on page 2, lines 19-28; page 4, lines 27-38; page 5, lines 1-9; page 7, lines 28-38; page 8, lines 1-21; page 43, lines 1-31. No new matter has been added. Reconsideration is respectfully requested.

### **Compliance With Sequence Listing Requirements**

A Notice to Comply with Requirements for Patent Applications Containing Nucleotides Sequence And/or Amino Acid Sequence Disclosures was enclosed with the Office action. To comply with the notice, applicant submits with this response a copy of the "Sequence Listing" in computer readable form as required by 37 C.F.R. §1.821(e). The "Sequence Listing" is submitted on 1.44 MB computer diskette, DOS format, as an ASCII-compatible text file. The computer-readable sequence listing submitted with applicant's response is identical to the paper copy of the sequence listing included with the application as filed. The computer readable sequence listing herewith submitted contains no new matter.

### **Restriction Requirement**

In response to the restriction requirement, Group I is elected with traverse.

The present application entered the national stage under 35 U.S.C. § 371, and examination is proceeding under 35 U.S.C. §§371-376 as the national stage of an application submitted under the Patent Cooperation Treaty. M.P.E.P. §1893.03(d) notes that unity of invention practice, not restriction practice, is applicable to national stage applications filed under 35 U.S.C. §371. Applicant respectfully submits that the application as amended satisfies the unity of invention requirement, as evidenced by the international examiner's report. No unity of invention objection was raised in the International Preliminary Examination Report. As part of the International Preliminary Examination, the examiner did suggest that the high number of independent claims caused the application to lack conciseness, and stated that "maintaining the high number of independent claims in the same category may give rise to a nonunity objection in regional phase examination." To respond to the international examiner's suggestion, applicant filed a Preliminary Amendment with the Section 371 application to change dependency, thereby substantially reducing the number of independent claims (from 21 to 8), and limiting to one the number of independent claims in each category. Moreover, the amendments made in response to the restriction requirement have further reduced the number of independent claims.

Applicant believes that the U.S. examiner's reliance on M.P.E.P. §806 is misplaced in making the restriction requirement. M.P.E.P. Chapter 800 deals only with restriction practice in examination of applications submitted under 35 U.S.C. §111(a). See M.P.E.P. §§801, 1893.03(d). Thus, for example, applicant believes it is incorrect for the examiner to distinguish invention I from IV, V, VI, and VIII-IX by citing arguments derived from M.P.E.P. §806.05(h) (as was done at page 5, lines 15-20 in Paper No. 5). Similarly, applicant believes it is incorrect for the examiner to distinguish invention II from V-VII, and invention III from invention V, by relying on restriction practice principles found in M.P.E.P. §806 (see page 6, lines 1-12, Paper No. 5).

In unity of invention practice, the issue is whether the claims of an application are linked to form a single general inventive concept. A single general inventive concept exists because of a technical relationship among the invention that involves at least one common or corresponding technical feature. The inventions of this application are linked by at least one common or corresponding technical feature; these features include the AIB1 polypeptide of claim 12, and polynucleotides encoding the AIB1 polypeptide of claim 12.

Since the present application is a Section 371 application, the reasons asserted in support of the Restriction Requirement are not adequate to support the requirement, and it should be withdrawn. The claims (all of which were examined during international prosecution) should then be examined together in the present application.

### Conclusion

It is respectfully submitted that the present claims are in condition for allowance. If any minor issues remain to be addressed, the Examiner is invited to call the undersigned patent attorney at the telephone number listed below.

Respectfully submitted,

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